

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2784

PETITION OF PERVAIZ E. SYED

OPINION OF THE BOARD

(Opinion Adopted June 15, 2011)
(Effective Date of Opinion: July 14, 2011)

Case No. S-2784 is an application by Pervaiz Syed, under Section 59-G-2.00 of the Zoning Ordinance, for a special exception to allow an accessory apartment. The subject property is Lot 14, Block C, Llewellyn Fields Subdivision, at 806 Lindsey Manor Lane, Silver Spring, Maryland 20905, in the RE-2C Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on March 11, 2011, closed the record in the case on March 25, 2011, and on April 20, 2011 issued a Report and Recommendation for approval of the special exception.

Decision of the Board: Special Exception **Granted**, Subject to
The Conditions Enumerated Below.

The Board of Appeals first considered the Report and Recommendation at its Worksession on May 4, 2011 and deferred action on the application pending communication with Mr. Syed. The Board again took up the Recommendation at its Worksession on June 15, 2011 and, after careful consideration and review of the record, adopts the Report and Recommendation, with revisions to Condition No. 2, and grants the special exception subject to the following Conditions:

1. The Petitioner is bound by his testimony, representations and exhibits of record identified in the Hearing Examiner's Report, and in this opinion;
2. The Petitioner must either enlarge the basement egress windows to have a net clear opening of 5 feet, 7 inches or obtain approval of a modification to the requirements of the building code to permit the existing windows to remain in place.

3. Based on habitable space in the apartment (586.46 square feet), no more than three family members or two unrelated persons may reside in the accessory apartment;
4. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
5. Petitioner must not receive compensation for the occupancy of more than one dwelling unit; and
6. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioners shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by David K. Perdue, Vice-Chair, seconded by Stanley B. Boyd, with Carolyn J. Shawaker, Walter S. Booth and Catherine G. Titus, Chair, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 14th day of July, 2011.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.